

FILED
BILLINGS DIV.

2008 JUL 25 AM 11 55
IN THE UNITED STATES DISTRICT COURT
PATRICK E. DUFFY, CLERK
FOR THE DISTRICT OF MONTANA
BY DEPUTY CLERK
BILLINGS DIVISION

UNITED STATES OF AMERICA,)	Cause No. CR 97-45-BLG-JDS
)	CV 05-12-BLG-JDS
Plaintiff,)	
)	
vs.)	
)	ORDER DENYING CERTIFICATE
JULIO AQUIL,)	OF APPEALABILITY
)	
Defendant.)	

This matter comes before the Court on issue of whether or not to grant a certificate of appealability with regard to the Court's denial of Defendant's Habeas Petition pursuant to 28 U.S.C. § 2255. In this context, the Court "shall indicate which specific issue or issues satisfy the standard for issuing a certificate, or state its reasons why a certificate should not be granted." U.S. v. Asrar, 108 F.3d 217, 218 (9th Cir. 1997).

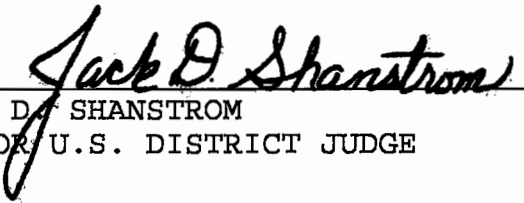
Defendant's motion to reconsider was denied because it was a an unauthorized successive §2255 Petition and not timely filed. Consequently, the Court finds: (1) these issues are not debatable among jurists of reason; (2) no court could resolve this issue in a different manner; and (3) this issue does not deserve further proceedings. Thus, Defendant has not shown that a federal right has been denied, and this Court is without grounds to issue a certificate of appealability. See Greenawalt v. Stewart, 105 F.3d

1268, 1273 (9th Cir.), cert. denied, 117 S.Ct. 794 (1997). Based upon the foregoing,

IT IS HEREBY ORDERED that the certificate of appealability is **DENIED**.

The Clerk shall forthwith notify the parties of the making of this order.

DONE and **DATED** this 25th day of July, 2008.



JACK D. SHANSTROM
SENIOR U.S. DISTRICT JUDGE